

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES LEE TEXTER,	:	CIVIL ACTION NO. 1:04-CV-0173
	:	
Plaintiff	:	(CONSOLIDATED)
v.	:	
	:	(Judge Conner)
TODD MERLINA, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 29th day of February, 2008, upon consideration of the trial exhibits submitted by plaintiff,¹ and it appearing that plaintiff directed his non-party witnesses to bring copies of their affidavits to trial (see Exs. 2-3), and the court finding that these affidavits are hearsay, see FED. R. EVID. 801, and that no exception to the rule excluding hearsay applies to these affidavits, see id. 803-804, 807, it is hereby ORDERED that plaintiff may only use an affidavit of a non-party witness to impeach that witness if the witness's testimony at trial is contrary to his statements in his affidavit (i.e., plaintiff may not publish a non-party affidavit to the jury or read its contents to the jury).²

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

¹ The order of court dated February 11, 2008 (Doc. 146) directed plaintiff to submit his trial exhibits by February 28, 2008.

² This ruling should not be construed as any indication of the court's view on the admissibility of the other trial exhibits submitted by plaintiff.